

ORIGINAL

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FILED

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NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :

COSTONTINO GIORDANO, D.C.
License No. MC 5411

TO PRACTICE CHIROPRACTIC :
IN THE STATE OF NEW JERSEY :

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Chiropractic Examiners upon receipt of information which the Board has reviewed, and the parties wishing to resolve this matter without further formal proceedings, hereby stipulate to the following facts and conclusion of law.

FINDINGS OF FACT

1. Respondent, Costontino Giordano, D.C., is a chiropractic physician in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On October 4, 2004, Respondent pleaded guilty in the Superior Court of Passaic County, New Jersey, to Count 2 of Indictment No. 04-06-0840-I, alleging his violation of N.J.S.A. 2C:14-3(b)/2C:14-2(c)(1) (Criminal Sexual Contact - 4th Degree). Respondent admitted that on or about April 2, 2003, he had touched the anal area of an adult female patient in his chiropractic practice, without her consent and solely for the purpose of his own sexual gratification. Respondent was subsequently admitted into the Pre-Trial Intervention program for a period of three years.

3. At sentencing, Respondent acknowledged to the court that he understood that his voluntary plea and admissions would form a factual basis for disciplinary action by the Board.

CONCLUSIONS OF LAW

1. The aforesaid plea provides grounds for the suspension of Respondent's license to practice chiropractic in New Jersey pursuant to N.J.S.A. 45:1-21(c), (e), (f) and (h), in that his actions constituted gross malpractice which damaged or endangered the health and welfare of his patient; in that he engaged in professional misconduct as determined by the Board; in that the crime to which he pleaded guilty is one of moral turpitude and relates adversely to the practice of chiropractic; and in that he committed a violation of the Board's sexual misconduct regulation, N.J.A.C. 13:44E-2.3(c) by engaging in sexual contact with a patient with whom he had a patient-chiropractor relationship.

IT IS ON THIS 16th DAY OF September, 2005

HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice chiropractic in the State of New Jersey be and hereby is suspended for a period of five (5) years, which period of suspension shall be stayed and

become a period of probation. Such stayed period of suspension shall be activated upon a showing of Respondent's non-compliance with any of the terms and conditions set forth herein.

2. Respondent shall successfully complete and unconditionally pass the ProBE (Professional Problem Based Ethics) course offered by The Ethics Group, 89 Summit Avenue, Suite 185, Summit, New Jersey 07901, or the PRIME (Professional Renewal in Medicine through Ethics) course offered by the Center for Continuing Education in the Health Professions at UMDNJ-Robert Wood Johnson Medical School, 97 Paterson Street, Room 124, New Brunswick, New Jersey 08903. Documentation of the full and successful completion of the course shall be provided to the Board.

3. Respondent shall pay costs to the Board in the amount of \$2,945.00. Payment shall be by certified check or money order made payable to the State of New Jersey, and shall be sent to: Kevin B. Earle, Executive Director, Board of Chiropractic Examiners at 124 Halsey Street, Sixth Floor, P.O. Box 45004, Newark, New Jersey 07101 no later than ten (10) days from the entry date of this Order.

4. Respondent shall engage the use of a female monitor(s), whose name(s) shall be provided to, and pre-approved by, the Board, and who shall have been made aware of this order and the charges recited herein; to be present in the treatment room for all periods of time during which any treatment is being rendered to female patients by Respondent for the entire period of stayed suspension .

5. The approved monitor(s) shall report to the Board immediately if practicable, and in all cases within 24 hours, any occurrence or behavior observed which the monitor(s) in good faith believes to have been inappropriate or potentially violative of this order. The monitor(s) shall provide to the Board a status report of her (their) hours and observations every thirty (30) days for the entire period of stayed suspension.

6. Respondent shall comply with the recommendation of Philip H. Witt, Ph.D. that he undergo a brief course of psychotherapy to address his feelings of being exploited financially by those who have complained about his actions. Respondent shall, and hereby does, consent to provide the identity of the licensed therapist to the Board within ten (10) days and a report from the licensed therapist within one year, from the entry date of this order. Respondent understands and acknowledges that nothing in this order shall preclude the Board or the Attorney General from taking any action with regard to Respondent's license based upon the aforesaid report, or for any other reason.

7. Failure to comply with any provisions of this Order or remit any and all payments required by this Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

8. The Directives of the Board applicable to any Chiropractic Board licensee who is suspended, revoked or whose surrender of licensure has been accepted are incorporated by reference as though fully set forth herein, whether or not they are attached hereto.

NEW JERSEY STATE BOARD OF CHIROPRACTIC EXAMINERS

By: _____

Joseph Louno, D.C.
Board President

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

Costantino Giordano, D.C.

This order is hereby agreed to as to its form and entry.

Frank Arleo, Esq.
Attorney for Costantino Giordano, D.C.